

APPEAL NO. 022777  
FILED DECEMBER 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 9, 2002. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fifth quarter. The appellant (carrier) appealed and the claimant responded.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant has a 25% impairment rating and that he did not commute impairment income benefits. The hearing officer found that during the qualifying period the claimant returned to work in a position relatively equal to his ability to work, thus satisfying the good faith criterion per Section 408.142(a)(4) and Rule 130.102(b)(2). The hearing officer also found that the claimant's earnings were less than 80% of his average weekly wage (AWW) as a direct result of the impairment from the compensable injury, thus satisfying the direct result criterion of Section 408.142(a)(2) and Rule 130.102(b)(1). The carrier contends that the hearing officer's determinations on the good faith and direct result criteria for SIBs are supported by insufficient evidence or are contrary to the great weight and preponderance of the evidence.

Rule 130.102(d)(1) provides that an injured employee has made a good faith effort to obtain employment commensurate with his ability to work if the employee has returned to work in a position which is relatively equal to the injured employee's ability to work. In Texas Workers' Compensation Commission Appeal No. 012480, decided November 15, 2001, the Appeals Panel noted that a claimant who has established that he has returned to work relatively equal to his ability to work need not establish that he worked any set portion of the qualifying period. Rule 130.102(c) provides that an injured employee has earned less than 80% of the employee's AWW as a direct result of the impairment from the compensable injury if the impairment from the compensable injury is a cause of the reduced earnings.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 N. ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Veronica Lopez  
Appeals Judge

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Edward Vilano  
Appeals Judge